

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Charlottesville Division**

ELIZABETH SINES, *et al.*,

Plaintiffs,

v.

JASON KESSLER, *et al.*,

Defendants.

Civil Action No. 3: 17-cv-00072-NKM

DECLARATION OF ALAN LEVINE

I, Alan Levine, on this 9th Day of March 2022, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am Senior Counsel at the law firm Cooley LLP (“Cooley”), one of the law firms representing the Plaintiffs in this action.

2. I submit this Declaration in support of Plaintiffs’ Motion for Attorneys’ Fees and Costs. Except to the extent otherwise expressly indicated, I have personal knowledge of the matters set forth in this declaration.

3. I am a member in good standing of the New York State Bar. I am also admitted to practice before the U.S. Supreme Court, the U.S. Court of Appeals for the Second Circuit, and the U.S. District Court for the Southern District of New York. On November 6, 2017, I was admitted to appear *pro hac vice* before this Court for and on behalf of the Plaintiffs in the above-captioned action.

4. I joined Kronish Lieb Weiner & Hellman LLP (“Kronish”) in 1980 and was Managing Partner from 1998 to 2006. I have been Senior Counsel with Cooley since 2006 when Kronish merged into Cooley. I was on the Management Committee of Cooley from 2006 until

2013. I have over forty-five (45) years of experience representing individuals and companies in complex civil, criminal and regulatory matters as lead trial counsel. I have successfully tried numerous civil and criminal cases and appeared in various federal and state courts throughout the country. I have held leadership roles with the American College of Trial Lawyers, the American Bar Association and the New York State Bar Association. I am currently the President of the Board of Directors for the New York City Legal Aid Society. Prior to joining Kronish, I served as an Assistant U.S. Attorney in the Southern District of New York. I graduated from New York University School of Law in 1973 and was a member of the Law Review.

5. Cooley was attorney of record in filing this action on October 11, 2017. I have represented Plaintiffs since the fall of 2017. I have worked closely with all the attorneys and staff members at Cooley who worked on this matter, including the five other Cooley timekeepers for whom Plaintiffs are seeking reimbursement of fees in this Motion for Attorneys' Fees and Costs—David E Mills, Joshua M. Siegel, Amanda L. Liverzani, Gemma Seidita and Courtney E. Fisher. Mr. Mills and I were the lead attorneys for Cooley, and we have supervised all work conducted by Cooley attorneys and paralegals. The qualifications of the individuals identified above are described briefly below:

6. David E. Mills is a Partner with Cooley. He joined Dow Lohnes PLLC in September 1992 and served on its Board of Directors, as Hiring Partner, and as head of its Litigation Department until it merged into Cooley in 2014. Mr. Mills has been a Partner at Cooley since January 2014. Mr. Mills is a member in good standing of the District of Columbia and Maryland State Bars and is also admitted to practice before the U.S. Supreme Court, the U.S. Courts of Appeals for the Second, Third, Fourth, Sixth, Eighth, Ninth, Tenth, Eleventh, D.C. and Federal Circuits, and the U.S. District Courts for the District of Columbia and Maryland. Mr. Mills has over thirty-five (35) years of experience representing multiple individuals, companies

and institutions in complex litigation matters including commercial disputes, antitrust cases, deceptive advertising, fiduciary duty and fraud cases, whistleblower actions, privacy and class-action litigation, copyright and trademark disputes and First Amendment cases. In addition to taking more than fifty (50) cases to trial, he has argued numerous cases in federal circuit courts and state supreme courts. Mr. Mills has also represented clients in investigations conducted by the Department of Justice, the Department of Education, the Federal Communications Commission, the Federal Trade Commission, the Department of Homeland Security, various Offices of Inspector General, the Department of Defense, the Treasury Department, the Securities and Exchange Commission, the National Association of Securities Dealers and the Federal Bureau of Investigation. Prior to joining Dow Lohnes, Mr. Mills also served as an Assistant U.S. Attorney. He graduated from Duke University School of Law in 1985 with honors.

Mr. Mills has represented the Plaintiffs in this action since the fall of 2017. On November 6, 2017, Mr. Mills was admitted to appear *pro hac vice* before this Court for and on behalf of the Plaintiffs in the above-captioned action, and he has been integrally involved in the prosecution of this action and the supervision of the Cooley attorneys and staff throughout the case.

7. Joshua M. Siegel is a Special Counsel with Cooley and has been with the firm since September 2006. Mr. Siegel is a member in good standing of the District of Columbia and Commonwealth of Virginia Bars and is also admitted to practice before the U.S. Courts of Appeals for the Fourth, Ninth, and D.C. Circuits, and the U.S. District Courts for the District of Columbia and the Eastern and Western Districts of Virginia. Mr. Siegel litigates a wide array of cases in federal and state courts and in arbitration. His practice involves numerous substantive areas of law, including complex commercial transactions and contracts, employment, class actions, medical devices, pharmaceuticals, intellectual property, government contracts, business torts, unfair business practices and consumer protection act claims, trade secrets, and corporate

governance disputes. Mr. Siegel is also a member of Cooley's Pro Bono Committee and has considerable trial experience representing refugees who seek asylum in the United States after suffering torture and persecution in their home countries as a result of their religious or political beliefs. He graduated *magna cum laude* from University of Richmond School of Law in 2006.

8. Amanda L. Liverzani is an Associate with Cooley and has been with the firm since September 2018. On May 22, 2020, Ms. Liverzani was admitted to appear *pro hac vice* before this Court for and on behalf of the Plaintiffs in the above-captioned action, however, she has been working in this litigation, on behalf of Plaintiffs' Counsel, since joining Cooley in 2018. Ms. Liverzani is a member in good standing with the New York State Bar and is also admitted to practice before the U.S. District Courts for the Southern and Eastern Districts of New York. Her practice focuses on commercial litigation, investigations and international arbitration. Ms. Liverzani has represented clients in state and federal court in a variety of matters including contractual disputes and business-related torts. She has also advised companies on compliance with the Foreign Corrupt Practices Act, as well as anti-money laundering and counter-terrorism regulations. Her international experience includes matters arising from conduct in the Middle East, India, Africa and the European Union. Ms. Liverzani also is committed to pro bono service and has represented clients in Immigration Court, Family Court and the New York City Civil Court. Prior to Cooley, Ms. Liverzani was an Associate at DLA Piper. She graduated from Harvard University School of Law in 2016.

9. Gemma Seidita is an Associate with Cooley and has been with the firm since October 2018. On October 6, 2021, Ms. Seidita was admitted to appear *pro hac vice* before this Court for and on behalf of the Plaintiffs in the above-captioned action, however, she has been working in this litigation, on behalf of Plaintiffs' Counsel, since October 2019. Ms. Seidita is a member in good standing of the District of Columbia, Commonwealth of Massachusetts and

California State Bars and is also admitted to practice before the U.S. Court of Appeals for the First Circuit and the U.S. District Court for the Northern District of California. Ms. Seidita handles a wide variety of complex commercial and securities litigation matters in federal and state courts, and in arbitration proceedings. She also has experience in pro bono litigation, and has worked on criminal, immigration and impact litigation cases. Ms. Seidita graduated *cum laude* from Duke University School of Law in 2018.

10. Courtney E. Fisher is a Senior Paralegal and joined Cooley in May 2018. She specializes in complex litigation and all aspects of discovery. Ms. Fisher has worked on this litigation, on behalf of Plaintiffs' Counsel, since January 2019. She has been an important contributor and assisted Plaintiffs' Counsel in all aspects of this litigation including discovery review, production and management. She also conducted factual research for multiple projects and assisted with various filings, depositions and the jury trial. She graduated from Stevenson University in 2014 with a Bachelor of Science degree in Paralegal Studies.

11. In addition to the attorneys and staff at Cooley, including the individuals listed above, we worked with attorneys and paralegals at Boies Schiller Flexner LLP (who later moved to Paul, Weiss, Rifkind, Wharton & Garrison LLP) and Kaplan Hecker & Fink LLP to prosecute this case.

12. This declaration solely concerns those fees incurred by the Cooley attorneys and paralegal identified above.

13. Exhibit A hereto reflects time entries and reasonable fees associated with Cooley work performed on Plaintiffs' successful Virginia Code Section 8.01-42 count and interrelated claims. Plaintiffs seek compensation for a total of \$3,403,320.00 in fees for approximately 11,462.2 hours of work performed at Cooley over the more than four years of this litigation.

14. For the Court's convenience, Cooley's hours and fees that are part of this Motion can be summarized as follows:

Phase / Description	Date Range	Cooley Hours	Cooley Fees
Investigation and Drafting of the Complaint	8/14/17–10/10/17	34.3	\$ 14,170.00
Motion to Dismiss	10/11/17–3/6/18	354.4	\$ 147,145.00
Discovery (Fact & Expert) and Summary Judgment ¹	3/7/18–8/23/21	7,391.9	\$ 2,185,630.00
Pretrial Disclosures and Motions	8/24/21–10/24/21	1,928.2	\$ 546,937.50
Trial	10/25/21–11/23/21	1,753.4	\$ 509,437.50
<i>Deduction for Fees Previously Sought</i>	N/A	N/A	N/A
Total		11,462.2	\$ 3,403,320.00

15. The entries in Exhibit A show the date legal services were performed, the type of work done, the amount of time expended, and the hourly rates applied. The exhibit reflects an accurate accounting, based on contemporaneous records, of the time Mr. Mills, Mr. Siegel, Ms. Liverzani, Ms. Seidita, Ms. Fisher, and I spent performing legal and paralegal services necessary to the case and this Motion.

16. As set forth more fully in Plaintiffs' Motion for Attorneys' Fees and Costs, the requested hourly rates for the work described in Exhibit A are reasonable for the Charlottesville, Virginia legal market. These rates represent a substantial discount on Cooley's customary hourly rates, and the hourly rates used are as follows:

¹ Discovery work began during the prior Motion to Dismiss phase and continued during the subsequent Pretrial Disclosures and Motions phase.

Attorney/Paralegal	Hourly Rate Claimed in Fee Motion
Alan Levine	\$450/hour
David E. Mills	\$400/hour
Joshua M. Siegel	\$400/hour
Amanda L. Liverzani	\$225/hour
Gemma Seidita	\$225/hour
Courtney E. Fisher	\$100/hour

17. Although many other attorneys and staff members at Cooley performed many hours of legal services throughout the past four years of litigating this case, their time has been excluded from the calculations in Exhibit A.

18. Exhibit A was created using time entries for this litigation for the months of October 2017 through November 2021 from Cooley's electronic billing system. Cooley attorneys reviewed and edited the entries of the six billers listed above, removed any attorney hours for non-legal or administrative tasks, and adjusted hours that exceeded what would typically be charged to a client for the kind of work indicated (*e.g.*, duplicative or excessive hours). Cooley attorneys also reviewed the descriptions in these fee entries for privilege and applied minimal redactions to protect information subject to attorney-client privilege or the attorney-work product protection.

19. The resulting fees included in Exhibit A were necessarily incurred in connection with Plaintiffs' successful Virginia Code Section 8.01-42 count and interrelated claims. They are the type of fees typically billed to clients for this type of work.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 9, 2022
New York, New York

/s/ Alan Levine
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